

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of NANCY M. WILLIAMS and U.S. POSTAL SERVICE,  
POST OFFICE, Pittsburgh, PA

*Docket No. 00-1911; Submitted on the Record;  
Issued February 15, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether the Office of Workers' Compensation Programs met its burden to terminate appellant's compensation benefits effective August 16, 1998.

On July 29, 1977 appellant, then a 30-year-old clerk, filed a traumatic injury claim alleging that she pulled a muscle in her neck and shoulder while lifting the seat of a chair on July 28, 1977. The Office accepted the claim for cervical strain. Appellant stopped work on August 2, 1977, returned to work on September 16, 1977 and was intermittently disabled from September 23 through 30, 1977. She filed a recurrence of disability on October 1, 1977, which was accepted by the Office and she was placed on the automatic rolls for temporary total disability effective February 24, 1983. On January 7, 1982 the Office expanded appellant's claim to include conversion disorder/psychogenic pain disorder.<sup>1</sup>

In a report dated May 8, 1998, Dr. Thomas R. Adamski, a second opinion Board-certified internist and psychiatrist, based upon an examination, review of the medical records, employment injury history and statement of accepted facts, diagnosed dysthymic disorder and malingering mental illness. He concluded that appellant was not totally disabled and was capable of working. Dr. Adamski also concluded that appellant had no psychiatric disability due to her accepted employment injury. He opined that appellant might "suffer from a chronic low level of depression such as a Dysthymic [d]isorder and her personality traits aggravate this. I do not believe that she has a dysfunctional [p]sychogenic [p]ain [d]isorder nor a conversion disorder." Dr. Adamski determined that appellant's current depression was due to a "reaction to longstanding personality disorder and the events surrounding her felony charges and the abandonment of the marriage" and was unrelated to her accepted employment injury.

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<sup>1</sup> The Board notes that the record contains evidence that appellant was indicted and convicted of mail fraud in regards to her compensation claim on February 18, 1993. Specifically, appellant was indicted for accepting augmented compensation for her spouse as a dependent when he was no longer a dependent and that her orthopedic disability had ceased and she was capable of working. Appellant's compensation benefits for her orthopedic condition were terminated in 1993.

On June 3, 1998 the Office issued a notice of proposed termination of benefits on the basis that appellant had no continuing disability or any residuals due to her accepted employment injury. Appellant did not respond to this notice.

In a July 31, 1998 decision, the Office terminated appellant's compensation benefits effective August 16, 1998.

On August 27, 1998 appellant requested a written review of the record and submitted reports from Dr. Clarissa Cabacungan, an attending psychiatrist and Dr. Lanny Detore, a licensed clinical psychologist, in support of her request.

In his August 11, 1998 report, Dr. Detore stated that "preliminary clinical impressions appear to indicate depression and somatic and physical limitation which seem to be associated with her previous work-related injury and consistent with previous findings." He noted that he could not provide a conclusive diagnosis until he had performed "a comprehensive review of records and clinical evaluations."

In a report dated September 18, 1998, Dr. Cabacungan diagnosed depressive disorder, personality disorder and chronic pain. She noted that appellant had become more depressed since the termination of her disability compensation benefits. Dr. Cabacungan noted:

"At this time, [appellant's] complaints of pain are difficult to evaluate. While she does seem to satisfy most of the diagnostic criteria for pain disorder, the fact that she has been receiving disability compensation for over 20 years makes the diagnosis of malingering very difficult to rule out."

By decision dated May 5, 1999, the hearing representative affirmed the termination of benefits.

The Board finds that the Office properly terminated compensation benefits effective August 16, 1998.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.<sup>2</sup> After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.<sup>3</sup> The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability. To terminate authorization for medical treatment, the Office must establish that a claimant no longer has residuals of an employment-related condition, which requires further medical treatment.<sup>4</sup> Thus, the burden of proof is on the Office rather than the

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<sup>2</sup> *Gewin C. Hawkins*, 52 ECAB \_\_\_\_ (Docket No. 99-798, issued January 29, 2001); *Alice J. Tysinger*, 51 ECAB \_\_\_\_ (Docket No. 98-2423, issued August 29, 2000).

<sup>3</sup> *Mary A. Lowe*, 52 ECAB \_\_\_\_ (Docket No. 99-1507, issued January 19, 2001).

<sup>4</sup> *Id.*; *Leonard M. Burger*, 51 ECAB \_\_\_\_ (Docket No. 98-1532, issued March 15, 2000).

employee with respect to the period subsequent to the date when compensation is terminated or modified.<sup>5</sup>

In assessing medical evidence, the weight of such evidence is determined by its reliability, its probative value and its convincing quality. The opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion are facts which determine the weight to be given to each individual report.<sup>6</sup>

In this case, the Office accepted that appellant sustained an employment-related conversion disorder/psychogenic pain disorder. The Office subsequently referred her to Dr. Adamski for a second opinion evaluation. The Board finds that the weight of the medical evidence rests with Dr. Adamski who submitted a thorough medical opinion based upon a complete and accurate factual and medical history. He performed a complete examination, reviewed the record and advised that he did not believe appellant had a dysfunctional psychogenic pain disorder or conversion disorder. Dr. Adamski concluded that her current depression was unrelated to her accepted employment injury.

The Board, therefore, finds that Dr. Adamski's report established, at that time, that appellant ceased to have any disability or condition causally related to employment, thereby justifying the Office's July 31, 1998 termination of benefits.<sup>7</sup> Thus, the burden of proof shifted to appellant to establish that her disability subsequent to December 2, 1999 continued to be causally related to her employment.

The reports appellant submitted subsequent to the Office's termination of her compensation do not outweigh the reports of Dr. Adamski or create a conflict of medical opinion. In a report dated September 18, 1998, Dr. Cabacungan diagnosed depressive disorder, personality disorder and chronic pain. She also indicated that as appellant had been "receiving disability compensation for over 20 years makes the diagnosis of malingering very difficult to rule out." Dr. Cabacungan failed to provide any rationale to explain how appellant's emotional condition was still related to the 1977 employment injury. In addition, her opinion is speculative as the physician stated that it was difficult to rule out that appellant was malingering due to the length of time appellant had been receiving disability compensation.

In a report dated July 31, 1998, Dr. Detore stated his "preliminary clinical impressions appear to indicate depression and somatic and physical limitation which seem to be associated with her previous work-related injury and consistent with previous findings." However, Dr. Detore opined that he could not provide a conclusive diagnosis until he had performed "a comprehensive review of records and clinical evaluations." This opinion is insufficient to create a conflict as Dr. Detore failed to provide any rationale to explain how appellant's emotional

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<sup>5</sup> *Eddie Franklin*, 51 ECAB \_\_\_ (Docket No. 98-1240, issued December 14, 1999).

<sup>6</sup> *See Connie Johns*, 44 ECAB 560 (1993).

<sup>7</sup> *See Joe Bowers*, 44 ECAB 423 (1993).

condition was still related to the 1977 employment injury. Furthermore, the report is equivocal as Dr. Detore indicated that without a comprehensive review of the medical records, he was unable to provide a conclusive diagnosis.

As both the opinions of both Drs. Cabacungan and Detore are unrationalized, they are insufficient not only to outweigh the well-rationalized report of Dr. Adamski, but also to create a new conflict with it. Thus, appellant has failed to meet her burden of proof.

The May 5, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
February 15, 2002

Michael J. Walsh  
Chairman

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member